CORRECTED FISCAL NOTE

SB 3759 - HB 3523

March 27, 2008

SUMMARY OF BILL: Authorizes any person who manufactures, produces, or sells bottled soft drinks and the purchaser or distributor of such bottled soft drinks to agree in writing as to who will pay the privilege tax on such bottled soft drinks. Requires the purchaser or distributor to pay the privilege tax in instances where no agreement has been made.

ESTIMATED FISCAL IMPACT:

On March 4, 2008, we issued a fiscal note for this bill indicating a *decrease to state revenue of not significant.* Based on additional information provided by the Department of Revenue specifically related to tax credits which are authorized to be applied against privilege tax liability for franchise and excise taxes paid by in-state importers or distributors of bottled soft drinks, the fiscal impact of this bill is estimated as follows:

(CORRECTED)
Decrease State Revenue – $300,000

Assumptions:

- According to the Department of Revenue (DOR), there could be some incidences where tax liability is unsettled as to the party liable and the payment owed. DOR indicates an increased probability of reduced privilege tax collections when any agreement requires out-of-state manufacturers, producers, or sellers to pay the privilege tax.
- Tenn. Code Ann. § 67-4-402(b)(2) states that a person located outside this state who distributes bottled soft drinks in this state shall, for the privilege of engaging in such business, pay the tax on gross receipts derived from bottled soft drinks distributed by the person in this state in the same manner as does a person located in this state.
- DOR indicates that privilege tax collections will decrease when in-state importers or distributors become liable for the bottler's privilege tax (under forthcoming written agreements), when out-of-state manufacturers or suppliers would have paid the privilege tax on such bottled drinks under current law. When such written agreements are entered into, total privilege tax collections will decrease because the privilege tax liability of

the in-state importer or distributor will be less (because of authorized tax credits for franchise and excise taxes paid) than the privilege tax liability that would have been owed by the out-of-state manufacturer or supplier (who would have no franchise and excise tax liability to offset against the privilege tax owed). The extent of the decrease of privilege tax revenue is difficult to estimate given multiple unknown factors. However, the Department of Revenue indicates that such amount could exceed $300,000 per year.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

/rnc